

DCI/IC-76-1326
10 May 1976

MEMORANDUM FOR: Deputy to the DCI for the Intelligence Community
FROM :
Special Assistant to the D/DCI/IC
SUBJECT : Inclusion/Exclusion of the FBI in the NFIP

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1. The basic determination to be made re including any FBI funds in the NFIP has to do with whether the NFIP applies to all elements of the Intelligence Community, or only to those organizations which E.O. 11905 defines as "foreign intelligence agencies."

2. E.O. 11905, Section 2(b) states "Intelligence Community refers to the following organizations" and the listing includes: "(6) Intelligence element of the Federal Bureau of Investigation."

3. E.O. 11905, at Section 5, "Restrictions on Intelligence Activities," also includes a list of definitions, one of which is (Section 5(a)(6):

"(6) "Foreign Intelligence Agency" means the Central Intelligence Agency, National Security Agency, and Defense Intelligence Agency; and further includes any other department or agency of the United States Government or component thereof while it is engaged in the collection of foreign intelligence or counterintelligence, but shall not include any such department, agency or component thereof to the extent that it is engaged in its authorized civil or criminal law enforcement functions; nor shall it include in any case the Federal Bureau of Investigation." (underlining added)

4. It is very clear from the Executive Order that the restrictions set forth in Section 5 on the "foreign intelligence agencies" are not intended to apply to the FBI, and equally clear that the "Intelligence element" of the FBI is by E.O. definition a member of the Intelligence Community.

5. The Director of the FBI has indicated in writing he does not want any element of the FBI included in the budget of the NFIP. The point, therefore, is whether it is worth engaging in a controversy with the FBI Director about including in the NFIP the budget of the small FBI Intelligence Division. (I understand it is personnel.) It could well be that if FBI is not included, some argument might be raised by Treasury and ERDA concerning their inclusion. On balance, I recommend against pursuing the effort to include the FBI. This might be a topic for comment at the 14 May CFI meeting. 25X1

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Remarks:

SUBJECT: Inclusion/Exclusion of the
FBI in the NFIP

Possible topic for comment at the 14 May
CFI Meeting.

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Possible topic for comment at the 14 May CFI Meeting

OPBD disagrees with the recommendation to exclude the FBI from the NFIP. There is nothing in the Executive Order or the Annotations excluding the FBI, and CFI included both Treasury and ERDA even though both Mr. Simon and Mr. Seamans requested they not be included. CFI and the Community could be open to criticism for exempting only the FBI of those organizations defined by the Executive Order as comprising the Intelligence Community from the NFIP.

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